

Introduced by Senator Burton

February 26, 1999

An act to add Section 1352.5 to the Civil Code, and to amend Section 12955 of, and to add Section 12956.1 to, the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 1148, as introduced, Burton. Housing discrimination: restrictive covenants.

(1) Existing law prohibits discrimination in housing through restrictive covenants based on race, color, religion, sex, familial status, marital status, disability, national origin, or ancestry. The Davis-Stirling Common Interest Development Act regulates common interest developments and defines the declarations and other governing documents that govern the operation of common interest developments and the associations that manage common interest developments.

This bill would provide that no declaration or other governing document shall include a restrictive covenant in violation of these provisions, and would authorize the board of directors of an association that manages a common interest development, without approval of the owners, to repeal any declaration or other governing document that includes a restrictive covenant prohibited by these provisions. The bill would also authorize specified persons to bring a civil action for injunctive relief to enforce this prohibition against including restrictive covenants.

The bill would also provide, operative January 1, 2001, that the existence of a restrictive covenant constitutes prohibited

discrimination, regardless of whether the covenant is accompanied by a statement that it is repealed or void.

The bill would require a county recorder, title insurance company, escrow company, real estate broker, real estate agent, or association that provides a declaration with respect to a common interest development to any person, to place a cover page over the declaration or a stamp on the first page of the declaration containing a specified statement with respect to prohibited restrictive covenants. By increasing the duties of county recorders, the bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1352.5 is added to the Civil Code,
2 to read:

3 1352.5. (a) No declaration or other governing
4 document shall include a restrictive covenant in violation
5 of Section 12955 of the Government Code.

6 (b) Notwithstanding any other provision of law or
7 provision of the governing documents, the board of
8 directors of an association, without approval of the
9 owners, may repeal any declaration or other governing
10 document that includes a restrictive covenant prohibited
11 by this section, and may reenact the declaration or other
12 governing document without the restrictive covenant



1 but with no other change to the declaration or governing
2 document.

3 (c) The Department of Fair Employment and
4 Housing, a city or county in which a common interest
5 development is located, and any person may bring an
6 action against an association for injunctive relief to
7 enforce subdivision (a). The court may award attorney's
8 fees to the prevailing party.

9 SEC. 2. Section 12955 of the Government Code is
10 amended to read:

11 12955. It shall be unlawful:

12 (a) For the owner of any housing accommodation to
13 discriminate against any person because of the race,
14 color, religion, sex, marital status, national origin,
15 ancestry, familial status, or disability of that person.

16 (b) For the owner of any housing accommodation to
17 make or to cause to be made any written or oral inquiry
18 concerning the race, color, religion, sex, marital status,
19 national origin, ancestry, familial status, or disability of
20 any person seeking to purchase, rent or lease any housing
21 accommodation.

22 (c) For any person to make, print, or publish, or cause
23 to be made, printed, or published any notice, statement,
24 or advertisement, with respect to the sale or rental of a
25 housing accommodation that indicates any preference,
26 limitation, or discrimination based on race, color, religion,
27 sex, marital status, national origin, ancestry, familial
28 status, or disability or an intention to make any such
29 preference, limitation, or discrimination.

30 (d) For any person subject to the provisions of Section
31 51 of the Civil Code, as that section applies to housing
32 accommodations, to discriminate against any person on
33 the basis of sex, color, race, religion, ancestry, national
34 origin, familial status, marital status, disability, or on any
35 other basis prohibited by that section.

36 (e) For any person, bank, mortgage company or other
37 financial institution that provides financial assistance for
38 the purchase, organization, or construction of any
39 housing accommodation to discriminate against any
40 person or group of persons because of the race, color,

1 religion, sex, marital status, national origin, ancestry,
2 familial status, or disability in the terms, conditions, or
3 privileges relating to the obtaining or use of that financial
4 assistance.

5 (f) For any owner of housing accommodations to
6 harass, evict, or otherwise discriminate against any
7 person in the sale or rental of housing accommodations
8 when the owner's dominant purpose is retaliation against
9 a person who has opposed practices unlawful under this
10 section, informed law enforcement agencies of practices
11 believed unlawful under this section, has testified or
12 assisted in any proceeding under this part, or has aided or
13 encouraged a person to exercise or enjoy the rights
14 secured by this part. Nothing herein is intended to cause
15 or permit the delay of an unlawful detainer action.

16 (g) For any person to aid, abet, incite, compel, or
17 coerce the doing of any of the acts or practices declared
18 unlawful in this section, or to attempt to do so.

19 (h) For any person, for profit, to induce any person to
20 sell or rent any dwelling by representations regarding the
21 entry or prospective entry into the neighborhood of a
22 person or persons of a particular race, color, religion, sex,
23 marital status, ancestry, disability, familial status, or
24 national origin.

25 (i) For any person or other organization or entity
26 whose business involves real estate-related transactions to
27 discriminate against any person in making available a
28 transaction, or in the terms and conditions of a
29 transaction, because of race, color, religion, sex, marital
30 status, national origin, ancestry, familial status, or
31 disability.

32 (j) To deny a person access to, or membership or
33 participation in, a multiple listing service, real estate
34 brokerage organization, or other service because of race,
35 color, religion, sex, marital status, ancestry, disability,
36 familial status, or national origin.

37 (k) To otherwise make unavailable or deny a dwelling
38 based on discrimination because of race, color, religion,
39 sex, familial status, disability, or national origin.



1 (l) To discriminate through public or private land use
2 practices, decisions, and authorizations because of race,
3 color, religion, sex, familial status, marital status,
4 disability, national origin, or ancestry. Discrimination
5 includes, but is not limited to, ~~restrictive covenants~~,
6 zoning laws, denials of use permits, and other actions
7 authorized under the Planning and Zoning Law (Title 7
8 (commencing with Section 65000)), that make housing
9 opportunities unavailable.

10 *Discrimination under this subdivision also includes the*
11 *existence of a restrictive covenant, regardless of whether*
12 *accompanied by a statement that the restrictive covenant*
13 *is repealed or void. This paragraph shall become*
14 *operative on January 1, 2001.*

15 SEC. 3. Section 12956.1 is added to the Government
16 Code, to read:

17 12956.1. (a) As used in this section, “association” and
18 “declaration” have the same meanings as set forth in
19 Section 1351 of the Civil Code.

20 (b) A county recorder, title insurance company,
21 escrow company, real estate broker, real estate agent, or
22 association that provides a declaration to any person shall
23 place a cover page over the declaration or a stamp on the
24 first page of the declaration stating the following:

25 “If this document contains any restriction based on
26 race, color, religion, sex, familial status, marital status,
27 disability, national origin, or ancestry, that restriction
28 violates state and federal fair housing laws and is void.”

29 SEC. 4. Notwithstanding Section 17610 of the
30 Government Code, if the Commission on State Mandates
31 determines that this act contains costs mandated by the
32 state, reimbursement to local agencies and school
33 districts for those costs shall be made pursuant to Part 7
34 (commencing with Section 17500) of Division 4 of Title
35 2 of the Government Code. If the statewide cost of the
36 claim for reimbursement does not exceed one million
37 dollars (\$1,000,000), reimbursement shall be made from
38 the State Mandates Claims Fund.